

REMARKS:

In the foregoing amendments, claims 6-11 were canceled. Claims 1-5 were previously canceled. Accordingly, only claims 12-17 remain in the application at this time.

The decision by Board of Patent Appeals and Interferences (Board) mailed April 19, 2004, reversed the rejection of claims 12-17 that was set forth in the final Office action mailed May 8, 2002. Therefore, there is no outstanding rejection or objection to pending claims 12-17 now present in the application. Accordingly, applicant respectfully requests an allowance of these claims.

Applicant respectfully requests that the foregoing amendments be entered under the provisions of 37 C.F.R. § 1.116(b) for the purposes of placing the application in condition for allowance. The foregoing amendments delete rejected claims, so that only claims to which there is no rejection or objection are now presented in the application. For these reasons, applicant respectfully requests that the foregoing amendments be entered under the provisions of 37 C.F.R. § 1.116(b) for the purposes of placing the application in condition for allowance.

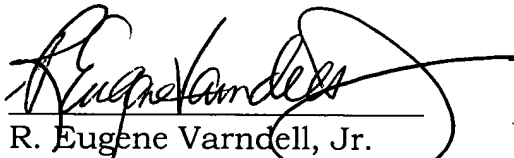
The decision of appeal was discussed in a telephone interview with Examiner Peter Szekely around May 26, 2004. The examiner indicated that after he receives a decision from Board, he normally cancels claims that are still rejected and allows claims for which there is no rejection, in accordance with the Manual of Patent Examination Procedure (M.P.E.P.).

Since there is no rejection of claims 12-17 in the application at this time, because the decision on appeal reversed the rejection(s) of these claims, a formal allowance of claims 12-17 is respectfully requested.

While it is believed that the present response places the application in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolved any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which may become due, may be charged to our deposit account No. 22-0256.

Respectfully submitted,
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To: Vasu Jagannathan
From: Peter Szekely

The allowance of claims 12-17 by the Board of Appeals is problematic because of the following reasons:

Claims 12-14

The VFd particle claimed has an average particle size of not more than 320.1 nm-s when not more than 1% fluorine containing surfactant is used. Problems:

- a) On page 1, lines 1-5 and page 4, lines 7-12 the invention is defined as VFd polymer having a particle size no more than 200 nm-s and on page 5, lines 9-18 it is shown that a particle size over 200 nm-s causes settling. See also Table I, Comparative Example 3.
- b) There is no mention of "average particle size of not more than 320.1 nm" in the specification and "the average particle size of no more than 320.1 nm" includes the "average particle size of not more than 200 nm" claimed in claims 6-11, which claims were held unpatentable by the Board in the very same decision.

Claims 15-17

The VFd particle claimed has an average particle size of not more than 196.3 nm-s when not more than 2% fluorine containing surfactant is used. Problems:

- a) On page 4, lines 7-12 the invention is defined as having a surfactant content of not more than 1% by weight and from page 5, line 33, to page 6, line 6, it is shown that a surfactant content of more than 1% causes precipitation of the surfactant in the film and increases the water absorption causing the dispersion to whiten.
- b) There is no mention of "average particle size of not more than 196.3 nm" specification and there are no other particle sizes shown with a surfactant content of 2% either. Furthermore, the "surfactant content of not more than 2% by weight" includes the "surfactant content of not more than 1% by weight" claimed in claims 6-11, which claims were held unpatentable by the Board in the very same decision.

For the above reasons I believe that the decision of the Board of Appeals is inconsistent and confusing, to say the least.

Peter Szekely